IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 34284 of 2002(F)

PETITIONER:

P.K.PRABHAKARAN,
DEPUTY COLLECTOR (R.R), WYNAD (RETIRED),
KIZHEDATH HOUSE, CHATHAMANGALAM P.O.,
KOZHIKODE DISTRICT.

BY ADV. SRI.P.J.MATHEW
SRI.THOMAS JOHN AMBOOKEN

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE COMMISSIONER (LAND REVENUE),
THIRUVANANTHAPURAM.

3. THE ACCOUNTANT GENERAL (A & E),
KERALA.

4. THE DISTRICT COLLECTOR, WYNAD.

5. THE DISTRICT COLLECTOR, KOZHIKODE.

BY GOVERNMENT PLEADER, SRI.K.G.BHASKARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.57984 OF 2002 IN O.P.No. 34284 OF 2002

DISMISSED

SD/-
26/7/07. T.R.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 29/03/2001.

EXT. P2: COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 28/04/2001.

EXT. P3: COPY OF THE LETTER OF THE ACCOUNTANT GENERAL DATED 28/11/2001.

EXT. P4: COPY OF THE GOVT. ORDER DATED 17/12/2001.

EXT. P5: COPY OF THE PAY SLIP DATED 16.4.02.

EXT. P6: COPY OF THE LETTER OF THE A.G. DATED 02/07/2002.

EXT. P7: COPY OF THE PROCEEDINGS NO.FB(A)55870 DATED 04/10/2001.

EXT. P8: COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 15/10/2001.

EXT. P9: COPY OF THE LETTER OF THE 2ND RESPONDENT TO THE 3RD RESPONDENT.

EXT. P10: COPY OF THE NON LIABILITY CERTIFICATE DATED 14/08/2002.

EXT. P11: COPY OF THE PETITION FILED BEFORE THE ADALATH.

EXT. P12: COPY OF THE LETTER OF THE 3RD RESPONDENT DATED /10/2002.

EXT. P13: COPY OF THE COVERING LETTER.

EXT. P14: COPY OF THE REPRESENTATION SUBMITTED BEFORE THE CHIEF MINISTER ON DATED 15/07/2002.

/TRUE COPY/

P.A. TO JUDGE

JP

T.R.RAMACHANDRAN NAIR, J.

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O.P. No.34284 of 2002-F.

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Dated this the 26th day of July, 2007.

J U D G M E N T

The petitioner retired from service on 31.10.2001 as Deputy Collector (RR) of the Wayanad district. The apparent grievance in this writ petition is about the delay in disbursement of Rs.6,199/- from the Death cum Retirement Gratuity sanctioned to the petitioner. The petitioner has got a further prayer to direct the respondent to pay 18% interest on the said amount for the delayed period. Ext.P7 is the proceedings by which the 2nd respondent sanctioned an amount of Rs.2,11,811/- from the retirement gratuity. Ext.P8 is Gratuity Payment Order forwarded by the Accountant General to the Pension Payment Treasury, Kozhikode wherein an amount of Rs.6,199/- is shown as amount kept withheld. But in Ext.P7 no such liability is shown. Therefore, the petitioner sought clarification from the 3rd respondent for withholding the amount. It was then understood that the liability attributed is the payment towards permanent travelling allowance while he was working as Special Tahsildar (LA) in the Kerala State Housing Board. The petitioner therefore filed a representation to the 2nd respondent to drop the same.

Thereafter the 2nd respondent after due enquiry through the District Collector intimated the Accountant General as per Ext.P9 that the petitioner was entitled to draw the travelling allowance and therefore the proceedings for recovery of amount from PTA may be dropped. Even thereafter nothing was done in the matter and the objection raised by the Accountant General continued to hold the field. Ext.P10 is the non liability certificate issued by the Commissioner of Land Revenue, Thiruvananthapuram. Again the petitioner approached the Adalath of the Accountant General for pensionary benefits and GPF settlement, which was conducted on 19.9.2002 at Kozhikode. Ext.P11 is the petition filed by the petitioner before the Adalath. But thereafter no orders are communicated. The petitioner was served with a copy of Ext.P12 which is addressed by the Accounts Officer to the Additional Sub Treasury Officer, Kozhikode wherein the instruction is to adjust the exact amount paid towards PTA from the DCRG. The petitioner has encashed the balance amount on 16.9.2002. The petitioner has produced Ext.P13 which is the communication from the District Collector, Wayanad to the Land Revenue Commissioner forwarding the non liability certificate. Ext.P14 is a representation submitted before the Hon'ble Chief Minister of Kerala by him.

2. I heard the learned counsel for the petitioner and the learned

counsel for the respondents.

3. The learned counsel for the petitioner submits that there was no justification to withhold any amount as liability from the DCRG due to the petitioner and that the petitioner is entitled to be paid the travelling allowance and his entitlement has been upheld in Ext.P9. Ext.P9 will show that the Land Revenue Commissioner as early as on 22.9.2000 has reported to the Accountant General, Kerala about the entitlement of the petitioner for the PTA. Therefore the Accountant General was not right in ignoring Ext.P9 and raising objection by way of Ext.P12. When the competent authority in the Government has overruled the objections and allowed the entitlement of the petitioner for payment of the amount, the Accountant General cannot refuse to follow the same. Therefore, there is no justification in issuing Ext.P12 by the Account General and directing to adjust the amount withheld from the DCRG. Hence the same is hereby quashed.

4. The learned Govt. Pleader relying on a letter from the Accounts Officer of the Indian Audit and Accounts Department submits that an amount of Rs.2,556/- was released to the petitioner on 14.11.2002 and the balance amount of Rs.3,643/- will be released on receipt of instructions from the Secretary, Land Revenue, Thiruvananthapuram. Therefore, if the said amount of Rs.3,643/- has not been so far released, the same shall be released

along with any other amount, if any, within six weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-